



STATE BOARD OF EQUALIZATION
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Fourth District, Los Angeles

STEVE WESTLY
State Controller, Sacramento

TIMOTHY W. BOYER
Interim Executive Director

STATE BOARD OF EQUALIZATION MEETING 450 N Street, Room 121, Sacramento

NOTICE AND AGENDA

Wednesday, October 15, 2003

Agenda items occur sequentially. When circumstances warrant, the Chairwoman may modify the order of items as they appear on the agenda.

BOARD COMMITTEE MEETING* (convenes at 9:30 a.m.)

❖ BUSINESS TAXES COMMITTEE

Mr. John Chiang, Chairman

Mr. Ramon Hirsig, Staff (916) 445-1441

- Proposed regulatory change regarding reporting tax on transportation charges based on an alternate method (Regulation 1628, Transportation Charges)

BOARD MEETING (convenes upon adjournment of the Business Taxes Committee)**

❖ PROPERTY TAX HEARINGS – PETITIONS FOR REASSESSMENT OF UNITARY VALUE

- ☐ Mirant Potrero, LLC (1108), 224116 – “CF”
Mirant Delta, LLC (1109), 224114 – “CF”
- ☐ AES Alamos, LLC (1100), 222549 – “CF”
AES Redondo Beach, LLC (1101), 222550 – “CF”
AES Huntington Beach, LLC (1102), 222551 – “CF”
AES Placerita, Inc. (1146), 224763 – “CF”
- ☐ La Paloma Generating Trust Ltd. (1112), 224198 – “CF”
- ☐ Riverside Canal Power Company (1120), 224762 – “CF”
- ☐ ~~Elk Hills Power, LLC (1126), 224226 – “CF”~~
- ☐ High Desert Power Trust (1127), 224484 – “CF”
- ☐ CALNEV Pipe Line, LLC (402), 224893 – “CF”
- ☐ SFPP, L.P. (461), 224890 – “CF”
- ☐ RCN Telecom Services of California, Inc. (7775), 224607 – “CF”
- ☐ Electric Lightwave, Inc. (2430), 224765 – “CF”
- ☐ Allegiance Telecom of California, Inc. (7742), 224482 – “CF”
- ☐ Calpoint (California), LLC (7971), 224153 – “CF”
- ☐ Covad Communications Group (7706), 223876 – “CF”
- ☐ Seren Innovations, Inc. (7832), 224865 – “CF”
- ☐ OnFiber Communications, Inc. (7892), 224743 – “CF”
- ☐ Altrio Communications, Inc. (7910), 224219 – “CF”
- ☐ Metromedia Fiber Network Services, Inc. (7837), 224024 – “CF”
- ☐ Looking Glass Networks, Inc. (7861), 225257 – “CF”
- ☐ WiTel Communications, Inc. (7819), 235464 – “CF”
- ☐ ACC Telecommunications, LLC (7909), 224481 – “CF”
- ☐ Alpine PCS, Inc. (2746), 224049 – “CF”

- ☐ Bakersfield Cellular Telephone Company (2622), 224205 – “CF”
- ☐ Cagal Cellular Communications Corporation (2611), 224206 – “CF”
- ☐ AT&T Wireless Services of California, LLC (2606), 224208 – “CF”
- ☐ AT&T Wireless PCS, LLC (2749), 224211 – “CF”
- ☐ Redding Cellular Partnership (2639), 224212 – “CF”
- ☐ Salinas Cellular Telephone Company (2637), 224213 – “CF”
- ☐ Santa Barbara Cellular Systems, Ltd. (2626), 235463 – “CF”
- ☐ Yuba City Cellular Telephone Company (2643), 224216 – “CF”
- ☐ Dobson Cellular Systems, Inc. (2675), 224217 – “CF”
- ☐ Santa Cruz Cellular Telephone Company (2630), 224218 – “CF”

❖ SENIOR CITIZEN & HOMEOWNERS AND RENTER ASSISTANCE CLAIMS HEARINGS

- ☐ Kim Walton, 205841

❖ CORPORATE FRANCHISE AND PERSONAL INCOME TAX HEARINGS

- ☐ Michael R. Spence and Kevan Hunt, 195676
- ☐ Anthony Angelo Malfatti, 171092
- ☐ Douglas W. Samski, 183035

❖ SPECIAL TAXES APPEALS HEARINGS

- ☐ Laron Enterprises, Inc., 113112

❖ SALES AND USE TAX APPEALS HEARINGS

- ☐ Whitmire Distribution Corp. (AKA Cardinal Health 110, Inc.), 30641
- ☐ Yehoshua Sagi, 150022
- ☐ Optikwerk, Inc., 133115

❖ PUBLIC HEARINGS

➤ **Proposed Adoption of Amendments to Sales and Use Tax Regulation 1591, Medicines and Medical Devices**

Regulation 1591, Medicines and Medical Devices, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6369. Amendments are proposed to provide that sales of breast and tissue expanders are exempt from tax under defined conditions.

➤ **BUSINESS TAXPAYERS' BILL OF RIGHTS HEARINGS**

Individuals have the opportunity to present their ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs. At the Business Taxes hearings you can comment on the administration of sales and use taxes, environmental fees, fuel taxes, and excise taxes.

➤ **PROPERTY TAXPAYERS' BILL OF RIGHTS HEARINGS**

Individuals have the opportunity to present their ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs. At the Property Taxes hearings you can comment on the property taxes programs and laws administered by the Board, and identify ways to resolve any problems identified in the Property Taxpayers' Advocate's Annual Report.

❖ TAX PROGRAM NONAPPEARANCE MATTERS - ADJUDICATORY**A. Legal Appeals Matters**

- Petitions for Rehearing
 1. Ozone Productions Ltd., 89000098650
Olivia Beren, 89000965750
 2. Bobby R. and Mary H. Boydston, 37252, 37254
 3. McDonnell Douglas Corporation, 106386
- Hearing Request Withdrawn
 4. Porterville Ready Mix, Inc., 145627
 5. Sally Bethea, 142352
- Cases Heard But Not Decided
 6. Palladium Investors, Ltd., et al., 154916, 89002254320

B. Franchise and Income Tax Matters

- Decisions
 1. Brian Zuchowski, 201813
- Matters for Board Consideration
 2. OII Third Partial Consent Decree Cash Account Escrow, 139239
 3. Allen Jerome and Toby Shafran, 142929

C. Sales and Use Taxes Matters

- Credits and Cancellations
 1. Coherent Inc., 225019

❖ TAX PROGRAM NONAPPEARANCE MATTERS – CONSENT**D. Legal Appeals Matters**

- Petitions for Rehearing
 1. United Partition Systems, Inc., 94636
- Hearing Request Withdrawn
 2. K-Mart Corporation, 162539

E. Franchise and Income Tax Matters

- Decisions
 1. Jerome K. Carelock, 208991
 2. Alex J. and Setsu Carter, 218716
 3. Donovan J. Cornwell, 186400
 4. Rajinder J. Dheenshaw, 195045
 5. Rudolph and Paula Sue Galistel, 205258
 6. Scott G. Knight, 209803
 7. Delfino M. Maciel, 218395
 8. Benjamin Martinez, 218482
 9. Clara Jean Sanchez, 206115
 10. Kimberly Walker, 216176
 11. James G. and Judy A. Wilkinson, 191228
- Petitions for Rehearing
 12. Marvin E. Bryer, 134026

F. Homeowner and Renter Property Tax Assistance Matters

- Decisions
 1. Lourdes A. Cabanilla, 195775
 2. Rudy Wilkerson Gaines, 208277
 3. Cynthia Ann Hardeman, 208959
 4. Stella L. Owens, 209888
 5. Dolores Ray, 212622
- Petition for Rehearing
 6. Philip Jevanian, 204050

G. Sales and Use Taxes Matters

- Redeterminations
 1. Artisan Pictures, Inc., 130656
 2. Eduardo Orta, 130645
 3. Gal Bar-Or, 209369
 4. Micron Electronics, Inc., 217898
 5. Anca, Inc., 202118
 6. Alcone Marketing Group, Inc., 89002113960
 7. Wanpen Pirom, 111824
- Denials of Claims for Refund
 8. Investor's Business Daily, Inc., 115639
 9. Valley Communications, Inc., 141908
 10. Evergreen Intl. Airlines, Inc., 80619
 11. Sequenom, Inc., 213353
 12. Nova Crystals, Inc., 237190
 13. Colgate-Palmolive Company, 235761

H. Sales and Use Taxes Matters – Credits, Cancellations and Refunds

- Credits and Cancellations
 1. Advd Aerospace Research Conc., Inc., 235931
 2. Universal Instruments Corporation, 235267
 3. VWR International, Inc., 236684
 4. Tracy Ann Slater, 236513
 5. MJ Digital, 237050
 6. Polese Company, Inc., 237106
- Refunds
 7. HR Textron, Inc., 198086
 8. C & L Graphics, Inc., 60009
 9. Disney Direct Publishing, 201847
 10. Superconductor Technologies, Inc., 156091
 11. City of Hope National Medical Ctr., 236706
 12. Chevron U.S.A., Inc., 236636
 13. Chevron U.S.A., Inc., 235064
 14. W. Los Angeles Hlth. Sys. Ltd. Ptn., 144013
 15. Investor's Business Daily, Inc., 220960
 16. Clorox Company (The), 145359
 17. Diamond Micro Solutions, 190719
 18. Coxcom, Inc., 221039
 19. County of San Diego, 235903
 20. Seal Furniture Systems San Diego, 235065
 21. National Semiconductor Corp., 194518
 22. Lifescan, Inc., 238717
 23. CKS Partners, Inc., 28054
 24. Golden I Credit Union (The), 229133
 25. City of Redding, 224770
 26. Fleet Capital Corporation, 129078
 27. Hartness International, Inc., 197914
 28. American Century Investment Mgmt., Inc., 220320
 29. Nightfire Software, Inc., 236462
 30. Ciena Corporation, 236602
 31. Dominion Venture Finance LLC, 235752
 32. Ritz Interactive, Inc., 235751
 33. Nova Crystals, Inc., 190717
 34. Deutsche Bank Securities, Inc., 235488
 35. First American Leasing Company, 220273
 36. Lucky Stores, Inc., 236463
 37. West Coast Liquidators, Inc., 236409
 38. Colgate-Palmolive Company, 235759

- 39. Air Products & Chemicals, Inc., 143617
- 40. Pacific Digital Image, 105953
- 41. Expert Semiconductor Technology, Inc., 222130
- 42. Trigem Enterprises, Inc., 195332
- 43. Kazi Food, Inc., 222524
- 44. Central Originating Lease Trust, 221042
- 45. Lobel Financial Corporation, 236084
- 46. Red Apple Morley, LLC, 216151
- 47. Nuvel Credit Corporation, 235754

I. Special Taxes Matters — Credits, Cancellations and Refunds

- Refunds
 - 1. City of Chula Vista, 239223
 - 2. Sentry Insurance, A Mutual Company, 172252 – “CF”

J. Property Tax Matters

- Petition for Reassessment of Unitary Value
 - 1. Duke Energy Moss Landing, LLC, 225284 – “CF”
 - 2. Duke Energy Morro Bay, LLC, 225287 – “CF”
 - 3. Duke Energy Oakland, LLC, 224880 – “CF”
 - 4. Duke Energy South Bay, LLC, 224889 – “CF”
- Petition for Penalty Abatement on Unitary Value
 - 5. Evercom Systems, Inc., 222056 – “CF”
 - 6. Verizon Avenue Corporation, 221746 – “CF”

❖ TAX PROGRAM NONAPPEARANCE MATTERS — NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

K. Property Tax Matters

- Audit
 - 1. Southern California Edison Company (148) – “CF”

❖ CHIEF COUNSEL MATTERS

L. Rulemaking

Administration

- [Request for Authorization to Publish](#)
 - 1. Regulation 6001, General Provisions, request for authorization to publish proposed amendments to the State Board of Equalization’s Conflict of Interest Code

Property Tax

- [Request for Authorization to Publish Property Tax Rule](#)
 - 2. Property Tax Rule 136, Limited Liability Companies as Qualifying Organizations for the Welfare Exemption, request for authorization to publish and approval of Corresponding Suggested Legislation

❖ ADMINISTRATIVE SESSION

- Education Outreach for Construction Contractors
 - ❑ [Sales and Use Tax Report - Educational Outreach for Construction Contractors](#)
- Consent Agenda
 - ❑ [Approval of Board Employee Retirement Resolutions](#)
 - Patricia Jones
 - Michael W. Groover
 - Eugene R. Wytrykus
 - Ralph L. Davis, Jr.
 - Franklin K. Conner
 - Dolores Giovenetti
 - Otis J. Freeman
 - Bettyann Hamela

- ☐ Prepayment of Sales Tax on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel
- ☐ Report Regarding Board Policy on Penalties
- ☐ Guidelines for Appraiser's Certifications and Training
- ☐ Assessors' Handbook Section 521, Assessment of Agricultural and Open-Space Properties
- ☐ Approval of draft summons to County Assessors

➤ **BOARD COMMITTEE REPORTS**

- ☐ Approval of the September 24, 2003 and October 15, 2003 Board Committee Minutes
 - Business Taxes Committee

➤ **OFFERS IN COMPROMISE RECOMMENDATIONS**

- Samuel J. Burris, Jr.

❖ **CLOSED SESSION**

- Discussion and approval of staff recommendations regarding settlement cases (R&T Code § 6901, 7093.5, 30459.1 and 50156.11)
- Pending Litigation: *Department of Toxic Substances Control v. State Board of Equalization*, Real Party in Interest Bechtel Petroleum Operations, Inc., Petition for Writ of Mandamus, Sacramento County Superior Court No. 01CS00894 (Govt. Code § 11126(e))
- Pending Litigation: *Heller v. 7-Eleven, Inc., 7-Eleven Inc. v. State Board of Equalization*, Los Angeles Superior Court Case No. BC277808 (Govt. Code § 11126(e))
- Discussion and action on Personnel Matters (Govt. Code § 11126(a))

If you would like specific information regarding items on this Board Meeting Agenda Notice please telephone (916) 322-2270 or e-mail: MeetingInfo@boe.ca.gov. Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Deborah Pellegrini, Chief
Board Proceedings Division

* Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.

** Public comment on any agenda item, other than a Closed Session item or an item which has already been considered by a Board Committee, will be accepted at that meeting.

"CF" Constitutional Function - The Deputy State Controller may not participate in this matter under Government Code section 7.9.

If substantial revisions to the published text of the regulations are approved at the hearing, the regulations will be re-published for a new hearing date. If only revisions sufficiently related to the published text of the regulations are approved, a notice containing these revisions will be mailed to those persons who commented orally or in writing or who asked to be informed of such revisions. The notice will be mailed at least 15 days prior to the scheduled Board adoption of the regulations to allow time for additional comments.

Agenda items occur sequentially. When circumstances warrant, the Chairwoman may modify the order of items as they appear on the agenda. Any committee agenda item may be brought to the Board at its next meeting. The hearing location is accessible to the disabled. If you require special assistance, please contact Gary Evans at (916) 445-4394, or e-mail Gary.Evans@boe.ca.gov, to make special arrangements.